

United States District Court

for the
Western District of New York



United States of America

v.

Case No. 17-MJ- 4059

**ROBERT IAN THATCHER, MAXIMILLIAN SAMS,
DWAYNE BANKS, and CARLITO RIOS, JR.**

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between on or about November 29, 2016, and on or about May 16, 2017, in the Western District of New York, and elsewhere, **ROBERT IAN THATCHER, MAXIMILLIAN SAMS, DWAYNE BANKS, CARLITO RIOS, JR.**, and others known and unknown, did combine, conspire and agree to possess with intent to distribute, and to distribute, quantities of furanyl fentanyl, a Schedule I controlled substance, and U-47700, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 846.

On or about May 16, 2017, in the Western District of New York, and elsewhere, **ROBERT IAN THATCHER** and **MAXIMILLIAN SAMS** did possess firearms in furtherance of a drug trafficking crime, that is, conspiracy to possess with intent to distribute, and to distribute, controlled substances, as alleged above, in violation of Title 18, United States Code, Sections 924(c)(1)(A)(i) and 2.

On or about February 23, 2017, and on or about March 4, 2017, in the Western District of New York, **DWAYNE BANKS** did possess with intent to distribute, and distribute, quantities of furanyl fentanyl, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

On or about April 3, 2017, April 8, 2017, April 14, 2017, and April 20, 2017, in the Western District of New York, **DWAYNE BANKS** did possess with intent to distribute, and distribute, quantities of U-47700, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

This Criminal Complaint is based on these facts:

Continued on the attached sheet.



Complainant's signature

SABATINO G. SMITH
Special Agent
Drug Enforcement Administration

Printed name and title

Sworn to before me and signed in my presence.

Date: May 16, 2017 at 3:25 pm

Marian W. Payson

Judge's signature

City and State: Rochester, New York

HONORABLE MARIAN W. PAYSON
United Magistrate Judge, WDNY

Printed name and title

17-mj-4059

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

State of New York)
County of Monroe) SS:
City of Rochester)

SABATINO G. SMITH, being duly sworn, deposes and states:

INTRODUCTION

1. I am a Special Agent with the United States Department of Justice, Drug Enforcement Administration (DEA). As such, I am an "investigative or law enforcement officer" of the United States within the meaning of Section 2510(7) of Title 18, United States Code, that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Title 21, United States Code, Section 801, *et seq.*, and Title 18, United States Code, Section 2516 (1).

2. I have been a Special Agent with the Drug Enforcement Administration since September 2009. Prior to being a Special Agent with the Drug Enforcement Administration, I was employed as a Special Agent and Counter Sniper with the United States Secret Service for eight years. In May of 2000, I received a Bachelor's of Science in Political Science from the State University of New York at Brockport. During my employment with the Drug Enforcement Administration, I have received (20) weeks of training in the methods used by drug trafficking and money laundering organizations. I have received training in the areas of drug identification, drug distribution methods, money laundering, financial investigations, and drug enforcement techniques. I am familiar with the methods of use, effects, distribution, appearance, as well as the methods of manufacture of controlled substances. I have experience in the investigation of violations of federal and state narcotics laws. I have

conducted and participated in numerous narcotics investigations resulting in the arrest and conviction of drug distributors, and the seizure of quantities of controlled substances. During these investigations my participation has included, but has not been limited to, undercover operations; direction of confidential sources; debriefing of defendants and others involved in the distribution and consumption of illegal drugs; execution of search warrants; execution of arrest warrants; affiant on court-authorized Title III interceptions, search warrants, and criminal complaints; and I have been involved in numerous surveillance operations.

3. In connection with my work with the DEA, I have worked with federal, state, and local law enforcement officers in the Western District of New York and elsewhere. These diverse personnel provide the DEA with an extensive breadth of experience and knowledge about illegal interstate drug trafficking. Based on my experience and the experience of others, I am familiar with the means and methods used by persons and drug trafficking organizations to purchase, transport, store, and distribute drugs, and to hide profits generated from those transactions. I also have experience in analyzing and interpreting drug codes and cryptic dialogue used by drug traffickers.

4. Based on my training and experience, I am aware that it is common practice for drug traffickers and manufacturers who desire to insulate themselves from detection by law enforcement to routinely utilize multiple telephones, counter surveillance, false or fictitious identities, and coded communications to communicate with their customers, suppliers, couriers, and other conspirators. Moreover, it is now a very common practice for drug traffickers to utilize all communication features of their telephones, most notably the voice call and text message features, nearly simultaneously to communicate with their conspirators. I am aware that those who distribute controlled substances often use cryptic,

coded or otherwise indirect language when telephonically discussing their illegal activities. I am aware also that those who distribute controlled substances will often add adulterants or additives to their controlled substances in order to increase the bulk of their distributable product, thereby increasing profit. I am aware that drug traffickers often possess and use firearms to defend themselves against and deter rival drug traffickers and/or potential robbers, enforce debt collections, and in other capacities to further their drug trafficking. Therefore, drug traffickers frequently are interested in obtaining firearms for these purposes.

5. This affidavit is being submitted in support of a criminal complaint charging ROBERT IAN THATCHER, MAXIMILLIAN SAMS, DWAYNE BANKS, and CARLITO RIOS, JR., with a violation of Title 21, United States Code, Section 846 (conspiracy to possess with intent to distribute, and to distribute, controlled substances); ROBERT IAN THATCHER and MAXIMILLIAN SAMS with a violation of Title 18, United States Code, Section 924(c)(1)(A)(i) and 2; and DWAYNE BANKS with violations of Title 21, United States Code, Section 841(a)(1) (possession with intent to distribute, and distribution, of controlled substances). The information in this affidavit is based upon my knowledge obtained through my personal participation in this investigation, and reports and information received from other law enforcement agents and agencies. Because this affidavit is being submitted for the limited purpose of obtaining a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause that the above-referenced individuals have committed the above-referenced offenses.

FACTS ESTABLISHING PROBABLE CAUSE

6. The DEA is currently conducting a joint investigation with Homeland Security Investigations-Buffalo (HSI Buffalo), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Elmira Police Department (EPD), the New York State Police (NYSP), and the Pennsylvania State Police (PSP) into a large-scale drug manufacturing and trafficking organization led by an individual named ROBERT IAN THATCHER a/k/a Ian (hereinafter, "the THATCHER Organization"). This organization is believed to be responsible for manufacturing and distributing tens of thousands of tablets containing furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide) and U-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide) in the greater Elmira, New York area. The investigative team has identified MAXIMILLIAN SAMS a/k/a Max, DWAYNE BANKS, and CARLITO RIOS, JR., and others, as co-conspirators and/or drug distributors for the THATCHER Organization. Evidence obtained during the course of this investigation indicates that tablets manufactured and distributed by the THATCHER Organization have resulted in overdose deaths in the Elmira/Corning area.

7. As detailed in this affidavit, THATCHER resides at 23 Somerset Drive, Elmira, New York (THATCHER's residence), with his significant other, Amber Bates. This investigation has revealed that THATCHER, SAMS (THATCHER's partner in the organization), and their co-conspirators use the premises located at 604 South Lehigh Avenue in Sayre, Pennsylvania (hereinafter, "the Sayre location") to store drugs, firearms and

ammunition.¹ BANKS, a member of the THATCHER Organization, distributes tablets containing furanyl fentanyl and U-47700 from 457 Livingston Street, Elmira, New York (BANKS's residence). CARLITO RIOS, JR. is a distributor for the THATCHER Organization who is believed to have been the intended recipient of a quarter kilogram of furanyl fentanyl from China that was seized by law enforcement authorities on March 13, 2017.

FURANYL FENTANYL AND U-47700

8. On November 14, 2016, the Administrator of the DEA issued an order temporarily placing 3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide – which is U-47700 – and its isomers, esters, ethers, salts and salts of isomers, onto Schedule I of the Controlled Substances Act pursuant to the temporary scheduling provisions of that statute.

9. On November 29, 2016, the Administrator of the DEA issued an order temporarily placing N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide – which is furanyl fentanyl – and its isomers, esters, ethers, salts and salts of isomers, onto Schedule I of the Controlled Substances Act pursuant to the temporary scheduling provisions of that statute.

¹ Subpoenaed records from THATCHER's eBay account list THATCHER's residence and the Sayre location as shipping addresses.

Co-Conspirator One

10. On October 25, 2016, members of the Iredell County (North Carolina) Sheriff's Office stopped a 2009 Land Rover Sport Utility Vehicle (SUV), bearing New York license plate number HFC4470 and registered to CC-1, as the vehicle traveled south on Interstate 77 near Statesville, North Carolina. Co-Conspirator One (CC-1) was the driver and another passenger seat. A probable cause search of CC-1's vehicle revealed approximately 5,330 blue pills (approximately 400 grams) labeled "V" on one side and "48/12" on the other, which were concealed in the false bottom of a paint can. CC-1 and the passenger were arrested and taken in to custody. Laboratory analysis of the blue pills seized from CC-1's SUV revealed that they contained furanyl fentanyl.

11. After CC-1's arrest, CC-1 was placed in the Narcotics Office at the Iredell County Sheriff's Office, advised of his/her *Miranda* rights, and agreed to speak with investigators. CC-1 stated, in sum and substance, that he/she was traveling from Elmira, New York to Charlotte, North Carolina. CC-1 further stated that he/she was paid \$2,500 by another co-conspirator (CC-2) to transport the pills that were located inside the paint can discovered inside his vehicle from Elmira to Charlotte. MAXIMILLIAN SAMS was asked by CC-2 to find someone to transport the pills to Charlotte. On behalf of CC-2, SAMS asked CC-1 to transport the pills. CC-1 stated that SAMS had stopped at CC-1's house the previous night (Tuesday, October 24, 2016) and informed CC-1 that he/she (CC-1) would be leaving for Charlotte the next morning (Wednesday, October 25, 2016). CC-1 stated that he/she was supposed to be in Charlotte around 5:30 p.m. and identified the address to which he/she was supposed to deliver the pills. CC-1 stated that he/she was instructed to contact SAMS when he/she was about 30 minutes away from the address and SAMS would contact CC-2, who would in turn contact the intended recipient of the pills.

12. On November 16, 2016, CC-1 agreed to be interviewed by investigators at the Elmira Police Department (EPD). The purpose of this video-recorded interview was to assess CC-1's viability as an operational DEA Confidential Source. During the interview, CC-1 told investigators that ROBERT IAN THATCHER is the leader of an organization that distributes blue pills that are "*supposed to be Percocet.*"² MAXIMILLIAN SAMS is a drug distributor for THATCHER. CC-1 stated that the pills are sometimes marked "A 12" and that CC-1 was selling the pills for \$14 to \$15 per pill prior to CC-1's arrest. CC-1 stated that THATCHER and SAMS use an "*encrypted website*" to acquire materials required for their drug distribution activities, and that THATCHER had recently acquired a three-dimensional printing press and was attempting to manufacture firearms. CC-1 also told investigators that THATCHER was in possession of a .45 caliber pistol and an AK-47 rifle. CC-1 also stated that THATCHER has no legitimate employment and that SAMS is a "financial genius" who specializes in laundering illicit drug proceeds.

13. CC-1 also said that THATCHER and SAMS use a location controlled by THATCHER at 604 South Lehigh Avenue in Sayre, Pennsylvania (the Sayre location), to store drugs. With regard to the pills seized from CC-1 in North Carolina on October 25, 2016, CC-1 stated that he/she received the pills – concealed in the false bottom of a paint can – from SAMS at the Sayre location. CC-1 transported the paint can containing the pills to SAMS's residence at in Elmira, where it was stored overnight. The next day, CC-1 returned to SAMS's residence to obtain the paint can containing the pills and then transported the pills to North Carolina where he/she was arrested. CC-1 told investigators that SAMS arranged for CC-1

² The active opiate ingredient in Percocet is oxycodone.

to meet with an unidentified black male in Charlotte, North Carolina, who intended to take possession of and distribute the pills. CC-1 confirmed that THATCHER and SAMS are the “head” of the THATCHER Organization.

14. In addition, CC-1 stated that CC-1’s newborn son had recently died hours after he was born after the mother (who is CC-1’s girlfriend) ingested fentanyl pills that had been manufactured by THATCHER. CC-1 also told investigators that at least two others have died as a result of ingesting the pills.

THATCHER’S EBAY RECORDS

15. In January 2017, the investigative team subpoenaed records from eBay relating to THATCHER’s account. The eBay records show that, between approximately January 2014 and September 2016, THATCHER purchased numerous items commonly associated with a large-scale pill manufacturing operation. Specifically, the eBay records show that, during this time period, THATCHER purchased, among other things, three mechanical tabletting machines,³ parts and accessory components for tabletting machines, numerous tablet dies (bearing 4812V, K9, K56, M523), multiple packages containing microcrystalline cellulose⁴ weighing up to 11 pounds each, and magnesium stearate.⁵ The eBay records also

³ A mechanical tabletting machine (or tablet press) is a mechanical device that is used to compress powder into tablets of uniform size and weight. A press can be used to manufacture tablets of a variety of materials, including illegal drugs. To form a tablet, the granulated material must be metered into a cavity formed by two punches and a die, and then the punches must be pressed together with force to fuse the material together.

⁴ An excipient, such as microcrystalline cellulose, is a substance used alongside an active ingredient of a medication to, among other things, provide bulk (also referred to as a “bulking agent” or “filler”). They are also useful in the manufacturing process because they have non-stick properties and therefore are an anti-caking agent.

⁵ Magnesium stearate is a chemical compound used as a lubricant in the production of pharmaceuticals and cosmetics.

show that THATCHER purchased several firearms components and magazines, two bulletproof vests, and a thermal imaging camera. The recipient of the above-referenced items is listed as “Robert Thatcher,” and the shipping addresses for the account include THATCHER’s residence and the Sayre location. Records associated with many of the vendors of these items indicate that they are based in China.

16. Based upon my training and experience, I am aware that those who manufacture tablets containing fentanyl often obtain multiple tabletting machines in order to increase their output of these illicit substances and resulting financial profit. In addition, based on a review of commonly available literature, I am aware that manufacturing tablets containing an “active” ingredient such as fentanyl or its analogues generally requires an excipient, such as microcrystalline cellulose, along with a lubricant, such as magnesium stearate, to reduce mechanical malfunctions, bind the pill together, and dilute the “active” ingredient.

CONFIDENTIAL SOURCE TWO

17. On February 23, 2017, your affiant, along with Task Force Officer (TFO) Allen Wood, spoke to another confidential source (CS-2), who had been identified by members of the EPD as a lower-level drug distributor for the THATCHER Organization.⁶ CS-2 identified IAN THATCHER – “IAN” is THATCHER’s middle name – as the leader of a large-scale drug manufacturing organization responsible for manufacturing and distributing tens of

⁶ CS-2 was established as a confidential source with EPD in February 2017. The information provided by CS-2 has been independently corroborated by investigators through physical surveillance, records analysis and other investigative means. Investigators have determined that the information provided by CS-2 is reliable and credible. CS-2 has no arrest history and has agreed to cooperate with investigators in exchange for prosecutorial consideration.

thousands of tablets containing a “*derivative*” of fentanyl. CS-2 told investigators that the tableting machine is located somewhere in Sayre, Pennsylvania, but CS-2 did not know the specific address. CS-2 identified DWAYNE BANKS as a distributor for the THATCHER Organization and stated that CS-2 had been receiving 200 to 400 blue tablets containing fentanyl on consignment from BANKS approximately every one to one and a half weeks at BANKS’s residence. CS-2 told investigators that BANKS generally charges CS-2 \$12 per pill, but will sometimes provide slightly more pills if the pills are broken or fragmented. CS-2 stated that this occasionally happens because THATCHER does not always add the appropriate amount of binder to the pill press machine. Before cooperating, CS-2 had been distributing the pills throughout the Elmira area for \$30 per pill.

CONFIDENTIAL SOURCE THREE

18. On April 6, 2017, investigators met with another confidential source (CS-3).⁷ During the meeting, CS-3 told investigators that ROBERT IAN THATCHER had told CS-3 in approximately June 2016 that he (THATCHER) was the manufacturer and distributor of thousands of blue-colored pills containing fentanyl. CS-3 identified MAXIMILLIAN SAMS, CARLITO RIOS, CC-1, CC-2 and others, as distributors for the THATCHER Organization. CS-3 told investigators that THATCHER had told him/her that he had made over \$750,000 in United State currency from the distribution of fentanyl pills in the Elmira, New York area. THATCHER asked CS-3 to distribute his pills. CS-3 declined to sell THATCHER’s pills

⁷ CS-3 was arrested by the DEA in September 2016. The information provided by CS-3 has been independently corroborated by investigators through physical surveillance, records analysis and other investigative means. Investigators have determined that the information provided by CS-3 is reliable and credible. CS-3 has been convicted of two misdemeanors: possession of marijuana (2007) and Criminal Possession of a Controlled Substance 7° (2014). CS-3 provided information to investigators in exchange for prosecutorial consideration on his/her federal charges.

because he/she believed that the pills that THATCHER manufactures have resulted in multiple overdose deaths throughout the area. CS-3 identified Morgan Cloke as a person who died after ingesting pills he received from CC-2. CS-3 told investigators that CC-2 received the pills from THATCHER. CS-3 stated that THATCHER drives a "G37 Infiniti," which your affiant believes is a 2012 Infiniti G37, bearing New York license plate number GVE-8552 and Vehicle Identification Number (VIN) JN1CV6ARXCM672355, registered to Amber C. Bates (hereinafter, "the Infiniti").

SEIZURE OF FURANYL FENTANYL AT JOHN F. KENNEDY AIRPORT

19. On March 13, 2017, Customs and Border Protection (CBP) at the John F. Kennedy International Airport Mail Branch in Queens, New York, identified and selected United States Postal Service (USPS) package bearing number LT847301597CN for examination as part of an enforcement effort targeting international mail originating in China. The package was addressed to "Carito Rios, 1015 Oak St, Elmira, NY 14901," and the sender was listed as "Digital Partner, Bana 82 Q Huameiju D-618, Shenzhen, Shenzhen, China." USPS tracking information indicates that the package had been shipped from the sender in China on February 21, 2017, and arrived in New York on February 23, 2017, where it was held until it passed through the United States customs inspection process. Upon examination, the package was found to contain a white crystal-like substance within a foil pouch weighing approximately 249 grams. A presumptive field test utilizing a Fourier-Transform Infrared Spectroscopy (FTIR) device identified the substance as furanyl fentanyl.

20. New York State Department of Motor Vehicles (DMV) records show that an individual named CARLITO RIOS, JR., is listed as residing at 1015 Oak Street, Apartment

A, Elmira, New York. Records checks also reveal a Facebook account belonging to RIOS, which was identified by comparing photographs posted to that account and RIOS' New York State driver's license photograph. Based on the similarity between the name of the addressee on the above-referenced seized package and RIOS's name,⁸ and the fact that the package was destined for an address associated with RIOS, I believe that RIOS was the intended recipient of the seized package containing 249 grams of furanyl fentanyl.

21. This investigation has determined that telephone number (607) 302-8298 is used by ROBERT IAN THATCHER. A search for telephone number (607) 302-8298 on www.facebook.com reflects that it is assigned to the Facebook account for ROBERT IAN THATCHER. The Facebook account is listed under "Ian Thatcher" and there are numerous photographs of THATCHER and his significant other, Amber Bates, as well as other information confirming that the account belongs to THATCHER. CARLITO RIOS is listed among the "friends" associated with THATCHER's Facebook account.

22. Based upon my training and experience, I am aware that it is common for drug traffickers to arrange for packages containing contraband to be delivered to trusted associates in order to avoid prosecution should the package be intercepted by law enforcement. The recipients of these packages usually receive these packages in exchange for money and/or drugs. Based upon the information revealed during the course of this investigation, I believe that such an arrangement likely exists between THATCHER and RIOS. As detailed in this affidavit, CS-3 identified RIOS as a distributor for the THATCHER Organization.

⁸ RIOS's first name is CARLITO, while the addressee is listed as "CARITO," a difference of one letter.

23. On May 8, 2017, at approximately 2:00 p.m., physical surveillance was established in the vicinity of CARLITO RIOS, JR.'s place of employment at For Your Entertainment (FYE), a retail store located at the Arnot Mall in Elmira, New York. At that time, your affiant and TFO Allen Wood entered the Arnot Mall just as RIOS was leaving the FYE store. Surveillance was maintained of RIOS as he entered a white-colored 2007 BMW 328IS sedan, bearing New York State license plate number HPK5020 (hereinafter, "RIOS's BMW"). At that time, NYSP Trooper Chris Glick was positioned nearby in a marked NYSP vehicle to initiate a traffic stop of RIOS for unlicensed operation of a vehicle. HSI Special Agent LeRoy Oswald maintained aerial surveillance of RIOS as he departed the vicinity of the Arnot Mall and traveled to his residence in Beaver Dams, New York. At approximately 2:20 p.m., aerial surveillance was maintained of RIOS as he arrived at his residence. At that time, Special Agent Oswald observed RIOS park the vehicle in the driveway of the residence before observing RIOS exit the driver's side of the vehicle and enter the residence. Aerial surveillance of RIOS was terminated shortly thereafter, while ground surveillance of RIOS was maintained thereafter.

24. On May 8, 2017, at approximately 4:55 p.m., NYSP Investigator Kevin Backer observed RIOS exit his residence and retrieve mail from the roadside USPS mailbox at the end of the driveway. Investigator Backer then observed RIOS enter the passenger side of RIOS's BMW with the mail, as Valerie Joe exited RIOS's residence with two adolescent children. Joe got into the driver's seat of the vehicle and the children sat in the rear. Surveillance of RIOS's BMW was maintained as RIOS traveled toward Big Flats, New York. At approximately 5:10 p.m., your affiant observed RIOS's vehicle turn off Chambers Road onto Big Flats Road heading westbound. At approximately 5:14 p.m., your affiant observed RIOS's BMW arrive at THATCHER's

residence and park in the driveway. At approximately 5:18 p.m.,⁹ your affiant observed RIOS's BMW leave the vicinity of THATCHER's residence and travel eastbound on Big Flats Road.

25. On May 8, 2017, at approximately 5:20 p.m., NYSP Trooper Chris Glick initiated a traffic stop on RIOS's BMW. At that time, Trooper Glick approached the vehicle and asked the driver, Valerie Joe, for her license and vehicle registration. Trooper Glick explained to Joe that a vehicle similar to the BMW had departed an area gas station without paying for gas. Trooper Glick asked where she was coming from. Joe stated that they were coming from "his friend's house" because RIOS had to use the bathroom. At that time, Trooper Glick asked RIOS for identification and RIOS gave him a New York State identification card. Joe told Trooper Glick that they were traveling to the Wal-Mart located at 1400 County Road 64 (Big Flats Road) in Elmira. Trooper Glick asked why RIOS did not use the restroom at the Wal-Mart and RIOS responded, "*I don't do that there.*" Trooper Glick ended the traffic stop shortly thereafter and physical surveillance was terminated at that time.

26. Based on my training and experience, and my knowledge of this investigation, I believe that RIOS was likely delivering drugs, drug proceeds or other materials relating to the THATCHER Organization to THATCHER when RIOS went to THATCHER's residence on May 8, 2017. This conclusion is based on, among other things, the fact that RIOS was identified by CS-3 as a drug distributor for the THATCHER Organization, that the previously-seized package of furanyl fentanyl was destined for RIOS, that RIOS left his immediately after the mail arrived, that RIOS then traveled a significant distance from his residence to THATCHER's residence, that

⁹ THATCHER's residence is located at the end of a cul de sac. As a result, your affiant was unable to maintain surveillance of RIOS' activities in the driveway after he arrived and before he departed.

RIOS stayed at THATCHER's residence for only approximately four minutes, and that the explanation to Trooper Glick for their trip to THATCHER's residence appeared to be false and defied common sense.

CONTROLLED PURCHASES FROM DWAYNE BANKS

CONTROLLED PURCHASE – FEBRUARY 23, 2017

27. On February 23, 2017, the investigative team utilized CS-2 to conduct a controlled purchase of tablets containing approximately 5.89 grams of furanyl fentanyl¹⁰ in exchange for \$900 in cash from DWAYNE BANKS inside BANKS's residence. Prior to the meeting with BANKS, CS-2 and CS-2's vehicle were searched with negative results for the presence of contraband. The investigative team also equipped CS-2 with a concealed recording device, and gave CS-2 \$900 in United States Currency (DEA official funds). The recording of the controlled purchase revealed that the following conversation took place between BANKS and CS-2 at BANKS's residence:

BANKS: *Just give me 6 for this one. That's a huge bag.*
CS-2: *Cool. I'll take it.*
BANKS: *That is more than what I usually.*
CS-2: *Is that all you have? Do you have any more? I'll take it.*
BANKS: *Nah, I need the other ones because I have other people too.*
CS-2: *All right, all right. Fair enough.*
BANKS: *I gave you the good one.*
CS-2: *Ok, fair enough. I appreciate it sir. Here's your 9.*
BANKS: *Thank you.*
CS-2: *Thank you. Do you think it will be anytime soon?*
BANKS: *Hopefully any day now.*

¹⁰ A laboratory analysis conducted by the DEA Northeast Regional Laboratory confirmed that the exhibit contains N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide, which is furanyl fentanyl.

CS-2: *Hopefully. All right, cool let me know.*

BANKS: *All right.*

CS-2: *Have a good night.*

BANKS: *Yo, you haven't heard of nobody overdosing recently, right?*

CS-2: *No, all I've heard of people overdosing on is dope not these.*

BANKS: *Ok ok.*

CS-2: *Yeah. No, no, no.*

28. During this recorded conversation, BANKS revealed to CS-2 that he was in possession of additional quantities of drugs but that he was unwilling to distribute the drugs to CS-2 because he had obligated the drugs to "*other people*," meaning customers. CS-2 later said "*here is your 9*," which was a reference to the \$900 in DEA official funds provided to CS-2 for the controlled purchase. CS-2 then inquired about the next supply of fentanyl tablets by asking, "*Do you think it will be anytime soon?*" BANKS responded that he expected to receive a new supply of fentanyl tablets soon by saying "*Hopefully any day now.*" Based on my training and experience, I am aware of the lethal properties of controlled substances containing opiates; specifically fentanyl and its analogues. Those who distribute controlled substances often make an effort to distance themselves from drug customers who are associated with overdoses, especially those resulting in death or serious injury, as they may cause increased scrutiny by law enforcement authorities. I believe that BANKS said "*you haven't heard of nobody overdosing recently right,*" because he is aware that the controlled substances he and his co-conspirators distribute are known to cause overdoses and deaths.

CONTROLLED PURCHASE – MARCH 4, 2017

29. On March 4, 2017, the investigative team utilized CS-2 to make a controlled purchase of pill fragments and powder containing approximately 1.265 grams of furanyl

fentanyl¹¹ in exchange for \$600 (DEA Official Funds) from DWAYNE BANKS inside BANLS's residence. Beginning at approximately 7:16 p.m., CS-2, acting under the direction of the investigative team, exchanged the following text messages with BANKS (who was using the telephone assigned number (607) 846-5430):

CS-2: *You back home? Should be leaving my mom's shortly and I'll be right over*

CS-2: *I'm gonna hang out here till u answer so just lmk asap*

CS-2: ?

BANKS: *Like 30 mins*

CS-2: *Okay*

BANKS: *U got the 600*

CS-2: *Yezzers*

BANKS: *With u*

BANKS: *Kk I'm omw home*

CS-2: *Ready?*

BANKS: *15 mins be here*

BANKS: *I'm in shower lol*

CS-2: *Okay*

30. Prior to the meeting with BANKS, CS-2 and CS-2's vehicle were searched with negative results for the presence of contraband. The investigative team equipped CS-2 with a concealed audio transmitter and recording device, and gave CS-2 \$600 in United States Currency (DEA official funds). During the controlled purchase, BANKS told CS-2 that he expected to receive more fentanyl pills from his supplier within the next few days.

¹¹ A laboratory analysis conducted by the DEA Northeast Regional Laboratory confirmed that the exhibit contains N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide, which is furanyl fentanyl.

DELIVERY OF PILLS – APRIL 3, 2017

31. On April 3, 2017, your affiant was contacted by an individual associated with CS-2 (hereinafter, “JD”). JD reported that DWAYNE BANKS had unexpectedly provided JD a quantity of blue-colored pills on behalf of CS-2. At that time, I contacted EPD Investigator Daniel VanDine and requested that EPD investigators meet with JD to retrieve the blue-colored pills and obtain a written statement. The blue-colored pills bore markings that are consistent with the marking on other pills purchased from BANKS by CS-2. The investigative team retrieved the pills from JD and took a written statement from JD. In the statement, JD described the meeting with BANKS and stated, “*Dwayne [BANKS] told me there were 180 pills in the bag and said he normally does them for \$13.00 a pill*” and that CS-2 “*could just give him an even \$2,400.00.*” Your affiant believes that JD accepted the pills from BANKS out of fear that BANKS might become suspicious or cause bodily harm to JD or CS-2 if JD did not accept them. JD also wrote that BANKS had placed the bag containing blue pills in JD’s hand and said that CS-2 “*won’t care if you take them, right bro?*” A laboratory analysis conducted by the DEA Northeast Regional Laboratory revealed that the exhibit obtained by JD from BANKS consisted of 184 tablets containing approximately 11.4365 grams of U-47700.

CONTROLLED PURCHASE AND RELATED EVENTS – APRIL 8, 2017

32. On April 8, 2017, at approximately 3:15 p.m., pole camera surveillance at BANKS’s residence showed an individual believed to be DWAYNE BANKS enter the driver’s side of a black-colored 2014 Chevrolet Traverse CTV, bearing New York license plate number FCD-8243, which is registered to Alison M. Monroe at 579B Riverside Avenue, Elmira, New York. At the same time, court-authorized geolocation information for the

cellular telephone assigned number (607) 846-5430, which is used by BANKS, indicated that the telephone was located at BANKS's residence.

33. Pole camera surveillance footage from the Sayre location showed that, on April 8, 2017, at approximately 3:48 p.m., a black-colored Chevrolet Traverse CTV with a gold-colored New York license plate, which is believed to be the above-referenced Chevrolet Traverse CTV that BANKS was observed entering at approximately 3:15 p.m. An individual believed to be BANKS was then recorded approaching the Sayre location. At that time, a white male believed to be ROBERT IAN THATCHER granted BANKS entry to the Sayre location as he retrieved mail from the USPS box affixed to the right of the doorway. The individual identified as THATCHER then re-entered the Sayre location.

34. On April 8, 2017, at approximately 4:35 p.m., the individuals believed to be THATCHER and BANKS were observed exiting the Sayre location. BANKS entered the driver's side of the black-colored Chevrolet Traverse CTV and left the area, while THATCHER re-entered the Sayre location. At approximately 5:04 p.m., BANKS's black-colored 2014 Chevrolet Traverse CTV, bearing New York license plate number FCD-8243, arrived at BANKS's residence. At that time, BANKS was observed exiting the vehicle while holding what appeared to be a white-colored package to his abdomen with his right hand as he approached his residence.

35. On April 8, 2017, at approximately 7:21 p.m., the investigative team utilized CS-2 to conduct a controlled meeting with BANKS inside BANKS's residence. During the meeting, CS-2 paid \$2,700 (DEA official funds) to BANKS, which represented \$300 for the pills received from BANKS on March 4, 2017, and \$2,400 for the pills received from BANKS

on April 3, 2017. BANKS then distributed a quantity of blue-colored pills to CS-2 on consignment. During the meeting, BANKS said, "*they are just a little weaker than they were. Just give me ten dollars apiece for now on.*" A laboratory analysis conducted by the DEA Northeast Regional Laboratory confirmed that the exhibit obtained by CS-2 from BANKS consisted of 188 tablets containing approximately 11.4418 grams of U-47700.

36. On April 8, 2017, at approximately 6:32 p.m., through electronic video surveillance from a public location, agents reviewed footage the Sayre location showing an individual believed to be ROBERT IAN THATCHER exiting the Sayre location and then entering a gray-colored Infiniti G37 sedan.

CONTROLLED PURCHASE – APRIL 14, 2017

37. On April 14, 2017, the investigative team again utilized CS-2 to conduct a controlled purchase from DWAYNE BANKS inside BANKS's residence. Prior to the meeting with BANKS, CS-2 and CS-2's vehicle were searched with negative results for the presence of contraband. CS-2 was also equipped with a concealed recording device and provided with \$2,000 United States Currency (DEA official funds). During the controlled meeting, CS-2 provided \$2,000 to BANKS in order to satisfy the debt resulting from the pills previously received from BANKS. BANKS then gave CS-2 approximately 188 tablets on consignment. A laboratory analysis conducted by the DEA Northeast Regional Laboratory confirmed that the exhibit obtained by CS-2 from BANKS contained approximately 11.4371 grams of U-47700.

CONTROLLED PURCHASE – APRIL 20, 2017

38. On April 20, 2017, the investigative team again utilized CS-2 to conduct a controlled purchase from DWAYNE BANKS inside BANKS's residence. Prior to the meeting with BANKS, CS-2 and CS-2's vehicle were searched with negative results for the presence of contraband. CS-2 was also equipped with a concealed recording device and provided with \$1,500 United States Currency (DEA official funds). During the controlled meeting, CS-2 provided \$1,500 to BANKS in order to satisfy the debt resulting from the pills previously received from BANKS. BANKS then gave CS-2 a quantity of blue-colored pills on consignment. A laboratory analysis conducted by the DEA Northeast Regional Laboratory confirmed that the exhibit obtained by CS-2 from BANKS consisted of 167 pills containing 10.19 grams of U-47700.

VEHICLE TRACKING INFORMATION

39. On April 14, 2017, the Honorable Marian W. Payson, United States Magistrate Judge, Western District of New York, issued an order, under Case Number 17-MJ-4029, authorizing the installation and monitoring of a tracking device on the Infiniti, which is used by ROBERT IAN THATCHER. Pursuant to that order, the investigative team covertly installed and began monitoring the tracking device on April 19, 2017.

40. Since the tracking device was installed, the investigative team has observed that the Infiniti remains at THATCHER's residence most of the time. Monitoring of the tracking device has also revealed that the Infiniti has made frequent evening trips to the Sayre location (604 South Lehigh Avenue, Sayre, Pennsylvania). A digital remote camera used by the

investigative team at the Sayre location shows that, on numerous occasions, THATCHER would arrive at the Sayre location, sometimes alone but often accompanied by MAXIMILLIAN SAMS, enter the residence and remain there for several hours before returning directly to THATCHER's residence later in the evening.

41. Monitoring of the tracking device also shows that the Infiniti travels to area gas stations with high frequency. For example, on April 25, 2017, at approximately 4:30 p.m., THATCHER's vehicle departed THATCHER's residence and traveled eastbound to an area near Mill Street Ball Park in Horseheads, New York, arriving at approximately 4:39 p.m. The Infiniti then traveled westbound on Interstate 86 to the Mobil Gas Station at 121 East Front Street in Addison, New York, arriving at 5:08 p.m. The Infiniti remained at the Mobil Gas Station for less than 4 minutes before returning directly to THATCHER's residence. It should be noted that the distance between THATCHER's residence and the Mobil Gas Station is more than 27 miles. At approximately 5:41 p.m., the Infiniti again departed THATCHER's residence and traveled to the Express Gas Station at 607 South Main Street in Horseheads, arriving at approximately 5:50 p.m. The Infiniti remained at that location for three minutes and then returned to a parking lot south of the Mill Street Ball Park. The Infiniti remained at the Mill Street Ball Park for approximately 30 minutes and then returned to THATCHER's residence.

42. Similarly, on May 2, 2017, the Infiniti travelled to the Sunoco Gas Station at 208 West 2nd Street in Elmira, arriving at approximately 11:18 p.m. The Infiniti then traveled to the Sunoco Gas Station on Chambers Road, arriving at approximately 12:37 p.m. The vehicle then traveled to the Sunoco Gas Station/McDonald's restaurant on Grand Central

Avenue in Horseheads, New York, arriving at approximately 12:54 p.m. before returning to THATCHER's residence thereafter.

43. Based on my training and experience, your affiant is aware that those who distribute controlled substances often conduct their illegal drug transactions at businesses, such as gas stations, where there is a high volume of vehicular and pedestrian traffic in order to avoid arousing suspicion by law enforcement authorities. Considering the information that has been revealed to me during this investigation, your affiant believes that the travels of the Infiniti and the frequent stops at gas stations revealed by the tracking device are consistent with my belief that THATCHER is engaged in drug trafficking activities.

RECENT POLE CAMERA OBSERVATIONS OF THATCHER AND SAMS AT SAYRE LOCATION

44. On May 5, 2017, at approximately 11:46 a.m., the video camera at the Sayre location recorded the Infiniti arriving at that location. THATCHER was then observed entering the residence, carrying a black-colored bag over his left shoulder. At approximately 12:17 p.m., a white-colored 2011 Range Rover, bearing New York license plate NOTMOMZZ (which is currently registered to MAXIMILLIAN C. SAMS at 327 West Clinton Street, Elmira, New York) was observed arriving at the Sayre location. The Range Rover parked behind the Infiniti and then SAMS got out of the vehicle and entered the Sayre location. At approximately 7:45 p.m., SAMS was observed exiting the Sayre location while holding a gray-colored laptop computer in his left hand. SAMS placed the laptop inside the Range Rover and then went back inside the Sayre location. At approximately 10:11 p.m., SAMS was observed exiting the Sayre location, entering the Range Rover, and leaving the area. Physical surveillance of SAMS' Range Rover was maintained as the vehicle traveled

westbound on Interstate 86 towards Elmira. At the request of the investigative team, EPD Officer Robert Raymond initiated a traffic stop of SAMS' Range Rover on East 5th Street in Elmira. At that time, Officer Raymond identified the driver of the vehicle as SAMS. When asked where he was coming from, SAMS told the officer that he was coming from his friend's house in Sayre, Pennsylvania. SAMS said that he was traveling to his residence in Elmira.

45. SAMS provided Officer Raymond with verbal consent to search the vehicle. During the search, Officer Raymond observed that SAMS had a gray-colored laptop computer in the rear of the vehicle behind the driver's seat. Officer Raymond searched the interior of the Range Rover, but did not perform an exhaustive search out of concern that SAMS may become suspicious that he was under investigation. Officer Raymond did not locate weapons or contraband during the search.¹²

46. On May 9, 2017, at approximately 6:30 p.m., SAMS' Range Rover was observed arriving at the Sayre location and parking directly behind the Infiniti. At that time, an individual believed to be SAMS was observed exiting the driver's side of the vehicle and entering the Sayre location. At approximately 9:27 p.m., an individual believed to be SAMS

¹² It should be noted that, in the past, SAMS has been found in possession of a container with a false bottom. Specifically, on February 11, 2016, EPD Patrol Officer Thomas Marsh observed a black Infiniti sedan turn southbound on Euclid Avenue in Elmira without using a turn signal. The black Infiniti, which had Pennsylvania license plate number JZX8073 and was registered to ROBERT IAN THATCHER at 604 South Lehigh Avenue, Sayre, Pennsylvania (the Sayre location). Officer Marsh initiated a traffic stop of the vehicle on Clinton Street in Elmira. The driver, MAXIMILLIAN SAMS, stated that he was traveling to THATCHER's residence in Elmira to meet Amber Bates (THATCHER's significant other). SAMS indicated that Bates usually operates the vehicle but that THATCHER owned the vehicle. After officers smelled an odor of marijuana emanating from the vehicle, a search of the vehicle was conducted. During the search, they recovered a small quantity of suspected marijuana, Chlorox wipes container that had an empty hidden false compartment. In addition, SAMS had approximately \$2,000 United States currency in his wallet. When asked about the currency, SAMS stated that he was employed as a "*financial advisor*."

was observed exiting the Sayre location, re-entering the Range Rover and leaving the area. Moments later, an individual believed to be THATCHER was observed exiting the Sayre location, entering the Infiniti and leaving the area.

47. On May 10, 2017, at approximately 5:48 p.m., an EPD digital video camera located in the vicinity of SAMS's residence showed SAMS exiting his residence and entering the driver's side of SAMS' Range Rover. At approximately 7:11 p.m., the digital video camera at the Sayre location showed SAMS' Range Rover arrive at the Sayre location. At that time, SAMS was observed exiting the driver's side of the vehicle and THATCHER was observed exiting the passenger side of the vehicle. THATCHER was observed using a key to enter the Sayre location followed by SAMS. Moments later, THATCHER exited the Sayre location before retrieving what appears to be a tan-colored plastic bag, approximately 15 inches in circumference, from the passenger side of SAMS' Range Rover and re-entering the Sayre location. At approximately 8:50 p.m., THATCHER and SAMS were recorded exiting the Sayre location before spending several minutes examining the left side of the tailgate of THATCHER's black-colored 2003 Chevrolet Silverado in the dark with a flashlight. Prior observations of this vehicle have revealed that this vehicle is registered to Amber Bates at 549 Chambers Road, Horseheads, New York (weather conditions prohibited investigators from confirming the plate using the video camera). At approximately 9:15 p.m., SAMS and THATCHER were observed exiting the Sayre location, re-entering SAMS' Range Rover and leaving the area. At approximately 10:09 p.m., the EPD camera recorded SAMS' Range Rover arriving at his residence and SAMS subsequently entering the residence at that location.

48. It should be noted that, during the time that the pole camera surveillance has been in place at the Sayre location,¹³ the investigative team has not observed anyone at the Sayre location other than THATCHER, SAMS, BANKS (on April 8, 2017 only), Amber Bates, and a few unidentified males. With one exception,¹⁴ your affiant has not observed THATCHER spend the night at the Sayre location. Rather, THATCHER is generally observed traveling to the Sayre location (often with SAMS), staying for a period of time, and then leaving and returning to New York. It should also be noted that THATCHER's residence is more than 27 miles from the Sayre location and that Sayre is a short distance over the New York state line. A review of the records from the tracking device on the Infiniti does not show THATCHER visiting any locations in the Sayre area other than the Sayre location and, occasionally, commercial locations (such as a Subway restaurant). Considering THATCHER's lack of gainful employment, it is highly unusual for THATCHER to be maintaining a second house, more than 27 miles away from his residence in another state.

THATCHER'S LACK OF EMPLOYMENT

49. As part of this investigation, the investigative team has utilized, among other things, information provided by confidential sources, government record checks, toll and pen register records, physical and pole camera surveillance at various locations (including THATCHER's residence and the Sayre location), a mobile tracking device on the Infiniti, and geolocation data from THATCHER's mobile telephone to monitor the daily activities of

¹³ The pole camera was installed at the Sayre location on or about March 22, 2017, and has been in continuous operation since that time (with the exception of occasional, brief periods where the camera experienced technical issues).

¹⁴ On one occasion, THATCHER and Amber Bates were observed entering the Sayre location. They did not leave the Sayre location until the following day.

THATCHER. The information gathered through the use of these investigative techniques shows that THATCHER does not have any legitimate employment. In other words, there is no indication that THATCHER regularly reports to any commercial location(s) for the purpose of working.¹⁵

50. Additionally, the investigative team has identified two active bank accounts associated with THATCHER – an account in the name of ROBERT I. THATCHER, 604 South Lehigh Avenue, Sayre, Pennsylvania (the Sayre location), at Community Bank; and an account in the name of THATCHER's significant other, Amber Bates, at Chemung Canal Trust Company. Subpoenaed records for the Community Bank account show that, during the time period from February 2016 through February 2017, there were approximately 25 cash deposits totaling approximately \$44,820. Similarly, subpoenaed records for the Chemung Canal Trust account show that, during the time period from January 2015 to April 2017, there were multiple cash deposits totaling approximately \$129, 591.28. The Chemung Canal Trust records also show that Bates – and occasionally THATCHER – makes frequent cash deposits ranging from \$50 to \$2,000, with the most common deposit amounts being in the hundreds of dollars or approximately \$1,000. Notably, there were no direct deposits to either bank account, which provides further support for the conclusion that neither THATCHER nor Bates are gainfully employed.

¹⁵ This confirms the information provided by CC-1 in November 2016 when he told the investigative team that THATCHER does not have legitimate employment.

SEARCH WARRANTS ON MAY 16, 2017

51. On May 15, 2017, the Honorable Marian W. Payson, United States Magistrate Judge, Western District of New York, issued search warrants authorizing the investigative team to search various locations, including the premises located at 23 Somerset Drive, Elmira, New York (THATCHER's residence) (17-MJ-4052), and the premises located at 327 West Clinton Street, Elmira, New York (SAMS's residence) (17-MJ-4055), for evidence, fruits, and instrumentalities of violations of various federal drug laws. Also May 15, 2017, the Honorable Joseph F. Saporito, Jr., United States Magistrate Judge, Middle District of Pennsylvania, issued a search warrant authorizing a search of the premises located at 604 South Lehigh Avenue, Sayre, Pennsylvania (hereinafter, "the Sayre location"), for evidence, fruits, and instrumentalities of violations of various federal drug laws.

52. On May 16, 2017, the investigative team executed the search warrants at THATCHER's residence, SAMS's residence, and the Sayre location. During the search of THATCHER's residence, the search team recovered, among other things, firearms (including a loaded AR-15 rifle and loaded shotgun), blue food coloring, a bulletproof vest, and several containers (including a spray can and soda cans) with false bottoms. During the search of the Sayre location, the search team recovered, among other things, more than approximately 200 blue-colored pills,¹⁶ a scale with residue, four firearms – a loaded Springfield Armory, M1A .308 caliber rifle, bearing serial number 280932; a loaded Norinco SKS, 7.62X39mm caliber rifle, bearing serial number 9117047; a loaded Bushmaster made by BFI, Model XM15-E2S,

¹⁶ The seized pills are consistent with the size, shape and color of other pills seized and/or purchased during this investigation. They were marked with "K9," rather than "V" and "48/12." Due to the dangers of handling substances potentially containing furanyl fentanyl and/or U-47700, the search team was not able to field test the pills seized at the Sayre location.

.223-5.56mm caliber firearm, bearing serial number BFI630516; and an Ithaca Model 37, 12-gauge shotgun, bearing serial number 823663 – ammunition and firearm magazines. During the search of SAMS's residence, the search team recovered approximately four containers (including a spray deodorant can and soup can) with false bottoms.

CONCLUSION

53. **WHEREFORE**, based upon all of the foregoing, your affiant submits there is probable cause to believe that, between on or about November 29, 2016, and on or about May 16, 2017, in the Western District of New York, and elsewhere, ROBERT IAN THATCHER, MAXIMILLIAN SAMS, DAWYNE BANKS, CARLITO RIOS, JR., and others, known and unknown, committed a violation of Title 21, United States Code, Section 846 (conspiracy to possess with intent to distribute, and to distribute, controlled substances); that on May 16, 2017, in the Western District of New York, and elsewhere, ROBERT IAN THATCHER and MAXIMILLIAN SAMS committed a violation of Title 18, United States Code, Section 924(c)(1)(A)(i) (possession of firearms in furtherance of a drug trafficking crime); and on or about February 23, 2017, March 4, 2017, April 3, 2017, April 8, 2017, April 14, 2017, and April 20, 2017, DWAYNE BANKS committed violations of Title 18, United States Code, Section 841(a)(1) (possession of controlled substances with intent to distribute, and distribution of controlled substances).



SABATINO G. SMITH
Special Agent
Drug Enforcement Administration

Subscribed and sworn to before me
this 16 day of May, 2017.

Marian W Payson
HON. MARIAN W. PAYSON
United States Magistrate Judge
Western District of New York